



MINUTES BOARD OF LIVESTOCK MEETING

MARCH 12 & 13, 2012
SCOTT HART AUDITORIUM
302 N ROBERTS, HELENA, MT

BOARD MEMBERS PRESENT:

Jan French, Chair, cattle producer
Ed Waldner, swine producer
John Lehfeltdt, sheep producer
Linda Nielsen, Vice chair, cattle producer

Brett DeBruycker, cattle producer
Jeffery Lewis, dairy producer
Stan Boone, cattle producer

STAFF PRESENT:

George Harris, Centralized Services
John Grainger, Brands Enforcement
Dr Bill Layton, Veterinary Diagnostic Lab
Dr Eric Liska, Animal Health
Rob Tierney, Bison Management
Sherry Rust, minute taker

Gary Hamel, Meat Inspection
Dr Marty Zaluski, Animal Health
Dr Tahnee Szymanski, Animal Health
Steve Merritt, Public Information Officer
Christian Mackay, Executive Officer

PUBLIC PRESENT:

Kraig Glazier, USDA AAPHIS Wildlife Services
Quentin Kajula, Fish, Wildlife, Parks
Tom Linfield, USDA APHIS Area Veterinarian In Charge
Les Graham, Montana Livestock Market Assn
Ariel Overstreet, Montana Stockgrowers Assn

1:00 PM

CALL TO ORDER:

Monday March 12, 2012

ADMINISTRATIVE ITEMS

Board Communications:

- Jan French, Hobson
 - Getting ready to breed heifer calves, sold bred stock, enough moisture, not much wind, water standing around
- Jeff Lewis, Corvallis
 - Bitterroot Valley, easiest winter we have ever had, snow pack in the mountains is at 100%, dairy prices/milk prices dropping
- Stan Boone, Ingomar
 - Country looking great, 75 degrees yesterday, prices are good
- Ed Waldner, Chester
 - Milk prices pretty steady, awfully dry, winter wheat might not make it
- Brett DeBruycker, Dutton
 - Winter wheat is in tough shape, beef way better than ever, their annual bull sale is April 7th, spring seeding to do and grass cattle to get to grass
- John Lehfeltdt, Lavina
 - Wool looks promising, splendid spring

Approval of Minutes:

John Lehfeltdt moved to approve the January board meeting minutes as presented. Ed Waldner seconded. The motion carried unanimously.

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Interim Authorizations and Activities:

- Dan Turcotte attended an egg testing training session in Portland with expenses paid by the USDA.

John Lehfeldt moved to approve the chair's interim activities as presented. Ed Waldner seconded. The motion carried.

Executive Officer Reports:

Brett DeBruycker moved to approve the executive officer reports as presented. Jeff Lewis seconded. The motion carried unanimously.

Division Reports

Animal Health, Dr Marty Zaluski

- Action Item # 1. 3-12 Elk Surveillance Project Update - 2012
 - Quentin Kujala, FWP presented recent results of the second year of the elk study funded by USDA APHIS
 - Capture and test just outside DSA boundaries resulted in some sero positives
 - Suggested DSA boundary changes would affect producers would 282 producers, up from 234 a 20.5% increase, the number of cattle will approximately double with a 60% increase in testing.
 - Re-allocation of some bison personnel to aid in additional surveillance with changes in funding allocations (both programs are federally funded).
 - Concern is if we do not address the boundary now, we could present a negative image to other state veterinarians.
 - A boundary change is in order considering study findings and elk movement.

John Lehfeldt moved to enlarge the DSA through Hunting District 325 and the rest of 327 by publication of an ARM for public comment. Jeff Lewis seconded. The motion carried unanimously.

- Update on IBMP Citizens Working Group
 - Christian Mackay reported on the IBMP meeting where partners met to take up the CWG recommendations
 - An all day meeting where recommendations were gone through one by one, partners agreed with most recommendations except those found to be outside the scope of IBMP authority.
 - FWP is in the process of kicking off statewide bison management plan process.
 - Ariel Overstreet, CWG member, commented that CWG members do not feel the group is making any impact and are considering disbanding.
- Action Item # 2. 3-12 DSA Enforcement Personnel

Dr. Zaluski stated the department does not have enough boots on the ground regarding enforcement of DSA requirements

 - Partially because brand inspectors have that duty and the variety of requirements (vaccinations, DSA boundaries).

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- Suggested the department utilize one FTE from the bison program to augment the DSA requirements at the market enforcement then shifting to promoting awareness in the field.
- APHIS wants less emphasis on bison management and more on herd health now so that falls in line with their request.

John Lehfelddt moved to approve the reassignment of duties as described. Jeff Lewis seconded. The motion carried unanimously.

- Fergus County Trichomoniasis Investigation Update, Tahnee Szymanski
 - The investigation is ongoing in Fergus, Musselshell and Judith Basin County
 - It is not within the Trich Epizootic area designated last year.
 - 11 bulls from a Musselshell County herd tested positive out of 65 total bulls tested. The last negative herd test of the bull battery was two years prior. The bulls were part of a cohort that grazed in Fergus County.
 - Have identified six adjacent premises with exposed cattle possibilities
 - Required testing on those adjacent premises because no ongoing surveillance in the area.
 - From the primary premise three adjacent herds tested positive out of 16 herds identified.
 - Have traced back where the animals came from and are testing adjacent herds.
 - Two public information meetings were held.

A total of 40 herds being tested. 12 have completed testing (154 bulls) with 17 testing positive, an 11% incident rate.

Linda Nielsen joined the meeting at 3:35 p.m.

- Action Item # 3. 3-12 TB Official Order to Administrative Rule DRAFT
 - Dr Zaluski explained that the last legislation passed a bill, 81.2.102, whereby official orders by state veterinarians cannot last more than 5 years.
 - It is appropriate to move the TB Official Order to Administrative Rule under this statute.

Brett DeBruycker moved to authorize moving the TB Official Order to Administrative Rule through publication for public comment. Linda Nielsen seconded. The motion carried unanimously.

<u>3:00 p.m.</u>	<u>Recess</u>
<u>3:15 p.m.</u>	<u>Reconvene</u>

- Action Item # 4. 3-12 Policy Clarification of Adult Vaccination Imports from Canada
 - Dr Zaluski recently received a request to import cattle from Canada.
 - Montana Administrative Rule states animals imported must be official calfhood vaccinated.
 - Canadian cattle by law cannot be vaccinated therefore they cannot be imported into Montana
 - The requesting party asked if he can import the Canadian cattle into South Dakota (which allows non-vaccinated cattle importation), vaccinate and then import them into Montana.

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- Citing the negligible risk of bringing brucellosis into the state Dr. Zaluski, suggested that a better option is to allow the animals to come into the Montana then vaccinate, test (quarantined) and CAN brand for better tracking of the animals.
- He asked if board would allow the state veterinarian discretion on a case by case basis.

Stan Boone moved to allow non-vaccinated cattle to be imported into Montana at the state veterinarian's discretion and according to Montana quarantine, adult vaccination and testing rules. Ed Waldner seconded. The motion carried with Brett DeBruycker dissenting.

- Action Item # 6. 3-12 Out of State Travel Request
 - Dr Liska proposes to drive to Cody WY to attend their Brucellosis team meeting and a multi agency meeting on Brucellosis April 11 & 12, 2012.

Linda Nielsen moved to authorize the requested out of state travel. Brett DeBruycker seconded. The motion carried unanimously.

USDA APHIS Wildlife Services, Kraig Glazier

- Federal budget has been maintained at the cuts from last year.
- 17 counties have cattle petitions where no cost share is needed until cattle petition funding is used up in each specific county
- 22 non cattle petition counties where individual ranchers have cost shared with DOL Per Capita (50:50) for flying.
 - Currently have more requests than they can work
- Predators
 - Using a seven year average January to March coyote take by aerial resources is down 60% this year while the coyote take by ground methods is up 86%.
 - Wolves - January 1 to now using the seven year average, depredations are down with 8 wolves taken.

Veterinary Diagnostic Lab, Dr Layton

- MOUs being developed:
 - DSL3 Lab, MSU
 - MSU's DSL3 does have equipment VDL personnel could use in emergency situations.
 - Bozeman police department
 - Burning of drugs from the evidence room.
- Serology Position - decision due tomorrow.
- Pathologist
 - Have committed to study time June through September
 - nominated him for debt rebate
- Dr Layton will be off the week of May 14
 - Attending the NAHLM meeting in Ames, IA,
 - Expenses are federally funded and he takes his own time off to attend.

Producer Organization Updates

Public Comment

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Penny Smith, request for renewal of expired brand

4:45 p.m. Adjournment

Executive Session

Trial strategy

8:00 a.m. CALL TO ORDER

Tuesday March 13, 2012

BOARD MEMBERS PRESENT:

Jan French, Chair, cattle producer
Ed Waldner, swine producer
John Lehfeldt, sheep producer
Linda Nielsen, Vice chair, cattle producer

Brett DeBruycker, cattle producer
Jeffery Lewis, dairy producer
Stan Boone, cattle producer

STAFF PRESENT:

Dan Turcotte, Milk & Egg Bureau
John Grainger, Brands Enforcement
Steve Merritt, Public Information Officer
George Edwards, Livestock Loss Board
Darcy Anderson, Brands Enforcement
Cally Goyins, Brands Enforcement
Becky Waid, Brands Enforcement
Christian Mackay, Executive Officer

George Harris, Centralized Services
Dr Marty Zaluski, Animal Health
Dr Tahnee Szymanski, Animal Health
Marty Clark, Brands Enforcement
Martha Howey, Brands Enforcement
Tami DeMars, Brands Enforcement
Dani Kane, Brands Enforcement
Sherry Rust, Executive Assistant, minute taker

PUBLIC PRESENT:

Les Graham, MLMA
John Scully, Ennis
Ariel Overstreet, MSGA
Kraig Glazier, USDA APHIS WS
Tammy Bridges, Montana Beef Council
Pixie Elmore, local inspector
Renee Daniels Mantle, Montana Horses
Sam Hofer, Surprise Creek Colony
Jake Wurz, Cascade Colony
Michael Hofer, Glendale Colony

Paul Ringling, Montana Cattlemen's Assn
Alice & Mr. Camphouse, Fairfield
Tom Bears, Coremark
Brent Roeder, Montana Woolgrowers Assn
Kail Mantle, Montana Horses
Gene Curry, Montana Stockgrowers Assn
Kelly Flynn, HD 68
Andy Wipf, Big Sky Colony
Ruben Wurz, Big Stone Colony
Jock Anderson, Meadow Gold

Division Reports Continued

Centralized Services, George Harris

- Budget Preparation 2014-2015
 - Explained the budget development process, EPP and goals and objectives.
 - Estimated a pay increase since state employees have gone 4 years without one, probably average 3.5% per year with \$73,083 coming from per capita.
 - Reviewed per capita fee and other state special revenue programs and the dollar amounts for the 5% spending reductions.
 - Presented FY 2012 budget status report on all programs.

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- Action Item # 8.3-12 Bad Check Service Charge
 - 27-1-117, MCA relates to the charging of a bad debt service fee.
 - The department experienced an increase of checks returned for insufficient funds during the rerecord period with recovery of funds taking more staff time and department expense.
 - George recommended the board vote to apply a service charge at \$30 (maximum per statute) to aid the department in recovering costs incurred.

Brett DeBruycker moved to establish a service charge of \$25. Linda Nielsen seconded. The motion carried unanimously.

- Four County Predator Control County Allocations
 - George reviewed process by which the county allocation is derived from the amounts paid in per county to arrive at the following allocations:
 - Powder River \$11,047
 - Carter \$9,757
 - Richland \$5,987
 - McCone \$4,649
 - Total allocation to counties \$31,440
 - He requested board authorization to renew the predator control contracts and disburse the allocations as presented.

John Lehfeldt moved to authorize payment to the four counties as proposed. Jeff Lewis seconded. The motion carried unanimously.

- Livestock Loss Board, George Edwards
 - Claims are way down, but there are at least 14 animals taken that have not gotten reports on yet
 - Is working with an Ag coalition seeking funding out of the federal farm bill.
 - MACO approved a resolution for about \$5 million for the Livestock Loss Board.
 - Meets with Senator Tester's D.C. staff tomorrow.
 - Scheduled an April face to face meeting with Senator Baucus.

Brands Enforcement

- Expired Brands and Requests to Rerecord
 - Christian provided a brief history of recording of marks and brands in Montana.
 - Clearly the role of record is to clear the brand records of unused brands.
 - Current rerecord expired Dec 31, 2011 per state law.
 - Last year's performance audit found that "rerecord period that carries over to the 11th year violates the law and impacts the ability to issue new brands"
 - In 2001 15,000 brands were not rerecorded; this year 8,000 were not rerecorded.
 - The board has two options regarding expired brands and requests to rerecord.
 1. Take no action.
 - a) Allows for more new brands to be recorded through elimination of conflicts.
 - b) Keeps the department in compliance with law.However this method requires inventory inspection on brands of livestock being sold.

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2. Conditionally suspend the recording and conflict policy on expired brands
 - a) Need to add late fee and deadline.
 - b) Might require ARM.

John Grainger explained that the performance audit showed no statutory authority for a grace period following rerecord and stated that decades of board decisions have formed the brand policies for recording and re-recording.

<u>9:00 a.m.</u>	<u>Recess</u>
<u>9:15 a.m.</u>	<u>Reconvene</u>

PUBLIC COMMENT:

- Alice Camphouse, Fairfield bench, small rancher, use for a few head of cattle for butchering; she forgot, then sent in new application end of January. Refused because of conflicts.
- John Scully, representing Jerry Olson, said this was a process error. Jerry thought he had rerecorded, but contacted brand office on December 29 to check on his brands. This showed one of five brands not rerecorded which he recorded it. During that check staff missed another unrecorded brand that he has over 700 cattle branded with.
Should change statute to allow grace period, reissue with penalty or use emergency rule and handle the policy issue to accommodate brand owners.
- Rein Daniels-Mantle and Kyle Mantle- Montana Horse - Showed picture of the expired brand which they use on a large amount of working horses who are leased out and travel all the time. Missed the deadline - filed about 3 weeks late and was denied because of a conflict. Did not receive notice by mail. Was told in November by lien office to rerecord brand. Had illness in the family in December so did not meet the deadline
- Pixie Elmore, Three Forks, spoke for Mantles - local inspector and inspects their horses, they have a lot invested in their brand.
- Scott Mendenhall, auditor on the audit committee, commends the department for trying to comply with the audit recommendations; but also concurs with Mr. Scully for a change in statute. Suggests the board adopt Option 2 to get through to the next session and introduce a bill in next legislature for changes.
- Dawn Hauptman, Jensen Ranch Co, + 6 brand, in March 2011 came into the office and personally rerecorded the brand on the left hip. Informed by market brand office in January 2012 that she had not rerecorded the same brand on the left neck. Her miscue but would like to have it back.
- Representative Kelly Flynn, Mantles' legislator, and stockman suggests board look at Option 2 if penalty so be it. Will be back in the next legislature to help.
- Mr. Camphouse said most brand owners seeking to get brands back would be willing to pay a penalty.

Chairman Jan French commented that the Board of Livestock is made up of livestock owners and all have brands. Understands that mistakes are made. She personally paid three times to rerecord because of her mistakes.

Board discussion included the following:

- The department is for the industry but not necessarily individuals.

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- 40,000 rerecorded and 8,000 did not - where is the fairness to those who did if those who missed the deadline get the exception.
- Only thing that is gone is the brand, lifetimes etc still stand.
- Emergency rule making law "imperil public welfare"- may not meet this standard
- If use Option 2 - what do we do with fall run brandowners who missed the deadline
- Any board action will be closely scrutinized
- Option 2, suspension of policy and conflicts must have a sizable penalty to assure this does not happen in the future, fee commensurate with cost at least.
- Brand office has been holding about 200 new brand applications since January 1 waiting for expired decision.
- if suspend policy, where is the deadline, where does it end.

Brett DeBruycker moved that regarding reapplication for expired brands beginning April 1 to July 1 suspension of conflicts policy for ranchers shown active in the previous 3 years with a penalty of. \$1,000. Linda Nielsen seconded.

John Lehfeldt moved to amend the motion to start March 14 to end July 1. Ed Waldner seconded.

Stan Boone moved to amend the penalty to \$500. Died for lack of second.

Jeff Lewis amended motion to start March 13 to March 30. Died for lack of second.

Linda Nielsen moved to amend the motion to \$500 penalty. Stan Boone seconded. Passed with Jeff Lewis and John Lehfeldt voting no.

John Lehfeldt amended the motion to start March 14 and end on Monday May 14 at 5 P.M. Brett DeBruycker seconded. The motion passed.

11:30 a.m. Recess

11:45 a.m. Reconvene

- Freeze Brand (cattle) – proposed ARM

Christian Mackay reviewed the freeze brand issue and the proposed ARM amendments and additions.

Gene Curry, 2nd VP, MSGA commented that it is imperative to preserve the integrity of the hot iron brand system.

Jeff Lewis moved to authorize publication of the proposed freeze brand ARM for public comment. Stan Boone seconded. The motion carried with John Lehfeldt voting no.

- Brand/New rerecord Issues-proposed ARM
 - Non-refundable fee – New Brands/Transfers – proposed ARM
- John Granger reviewed the proposed changes in ARM for brands and brand fees. He explained the issues behind the proposed changes and noted the brand ARMs have not been amended for decades therefore updates are badly needed.

John Lehfeldt moved to authorize publication of the proposed ARM for public comment Brett DeBruycker seconded. The motion carried unanimously.

- Issuing One and Two Iron Brands
 - Dennis McDonald producer from Melville originally applied for hash knife right shoulder in 1998. More recently renewed the request with the suggestion of reviving one and two iron brands with historical significance through auction or bids.

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- Reviewed recommendations from Cort Jensen, attorney, that the department could hold an auction but would require changes in ARMs and possibility of statute.
- John Grainger said he intends to have a total review of the current conflict policy by inspectors and personnel who actively work with livestock and brands. He will then present an up to date policy to the board that serves equally department staff and producers.
- The board concurred and will consider the suggestions when presented.

Meat Inspection, Gary Hamel

- Updates
 - Held staff meeting so everyone is going the same direction, visited a couple of slaughter plants, developing a communication plan for staff with a working document.
 - Have six applications for new plants -working with George Harris to assure MI budget provides means to adequately provide services to these plants.
 - Processing class being held the last week of March.
- Dealer Licensing
 - Headwaters market transfer
 - All transfer paperwork is now in the office.
 - Will analyze it, post the 10 day notice for hearing, get a hearing officer and complete the transfer.
 - Christian Mackay is authorized to be the hearing officer by the board.
- Internet Auctions
 - The issue remains, and still a need for working on a plan to license these entities.
 - Received another call from an individual who is operating as a dealer - videoing in the country and selling.
- Applications are in for the market auditor position
 - Interviews are scheduled for March 14

Milk & Egg, Dan Turcotte

- Updates
 - Senator Tester visited the new egg grading plant February 11 and another visit is planned.
 - USDA gave Roy Hall a merit award for his efforts toward getting the plant up and running.
 - Roy just returned from an egg meeting in Portland
 - A producer meeting is pending in Great Falls to inform of requirements of new salmonella program.
 - USDA will be recertifying the egg plant in March.
- 12 Day Milk Rule

The board discussed the hearing examiner's decision and whether to extend, or keep the sell by date.

John Lehfeldt moved to delay a vote until the May meeting to allow board members more time to study the decision. Brett DeBruycker seconded. The motion passed.

Public comment

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Amy Angel, distributor

- Encouraged the board to keep 12 day rule saying her business needs good dates.
- Extending the 12 day rule will only confuse customers.
- Longer dates reduce shipper costs, fewer deliveries guarantee older dates on stock, and longer dates make out of state suppliers' task easier in delivering into and across the state
- IR poll question: Should BOL scrap the 12 day rule and let processors make their own dates? The majority of 212 replies said the BOL should keep the 12 day date.
- Keep the 12 day rule and only the 12 day rule; why fix something that's not broken.

Ruben Wurz, producer group

- 12 days and 10 is 22; milk is good to 24 days average.
- Don't want to know how milk tastes after 21 days.

Mike Wurz, milk board

- 12 day rule is good for all of Montana, customers drink the milk they get good fresh milk.

Andrew Wipf, Cut Bank producer

- Supports the 12 day rule
- If the consumer gets good milk they come back to buy more.

Jock Anderson, Meadow Gold

- Supports the 12 day rule.

Coremark

- The whole reason for our request is to provide service, keep things fresh.
- Very important to get the freshest milk to customers.
- The hearings examiner gives unique testimony.
- The 12 day rule means milk destined for Montana must have a sole sell by date , therefore Coremark must keep two inventories.
- Consumers, like all products, need to have an idea of how long that product is good for.

Derek Angel, distributor

- Temperature changes makes milk break down, which changes the taste of the milk.

Public Comment

NEXT BOARD MEETING MAY 28 & 29, 2012

1:00 p.m. Adjournment

CHAIRMAN